



October 27, 2021

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

In Re: Dominion Energy South Carolina, Incorporated's Request for "Like Facility"
Determinations Pursuant to S.C. Code Ann. § 58-33-110(1) and Waiver of Certain
Requirements of Commission Order No. 2007-626 (This Filing Does Not Involve any
Change to the Retail Electric or Natural Gas Base Rates)

Docket No. 2021-93-E

Dear Ms. Boyd,

On behalf of the Sierra Club, South Carolina Coastal Conservation League, the Southern Alliance for Clean Energy, and the Carolinas Clean Energy Business Association (collectively, "Movants"), please find a Reply to DESC's Response to a Joint Motion to Modify the Procedural Schedule attached for electronic filing in the above-referenced docket.

Please contact my assistant Kaya Mark at kaya.mark@sierraclub.org if you have any questions regarding this filing.

Sincerely,

Dorothy E. Jaffe
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STATE OF SOUTH CAROLINA
BEFORE THE PUBLIC SERVICE COMMISSION
DOCKET NO. 2021-93-E

In the Matter of:)	
)	
)	
Dominion Energy South Carolina,)	
Incorporated's Request for "Like)	
Facility" Determinations Pursuant to)	
S.C. Code Ann. § 58-33-110(1) and)	REPLY to DESC'S RESPONSE to
Waiver of Certain Requirements of)	JOINT MOTION TO MODIFY
Commission Order No. 2007-626)	PROCEDURAL SCHEDULE
(This Filing Does Not Involve any)	
Change to the Retail Electric or)	
Natural Gas Base Rates))	
)	

The Sierra Club, South Carolina Coastal Conservation League, the Southern Alliance for Clean Energy, and the Carolinas Clean Energy Business Association (collectively, "Movants") file this reply to Dominion Energy South Carolina Inc.'s ("DESC" or the "Company") response to the Joint Motion to Modify the Procedural Schedule.

Contrary to the claims made by DESC, the Movants are not attempting to "delay the resolution of this matter" -- movants are attempting to resolve this docket quickly through legal briefing *without* the need for witness testimony and a hearing.

**DESC Is Now Attempting to Rush a Commission Decision Based on System Conditions
that have Existed for Years**

DESC appears bent on rushing the Commission into a decision even though it is DESC that has long been aware of the condition of its combustion turbines – some of which date to the 1950s, and several of which have not been operable for long periods. Indeed, DESC's reliance on

aging peaking generation is not a new situation and begs the question of why DESC is now in such a hurry to bypass full review of its plans and the other legal obligations that it has voluntarily entered into, such as the Merger Settlement Agreement.

DESC claims that Movants' briefing schedule will put "DESC at the back of the manufacturing queue" and "could delay completion for the replacements by many years."¹ But the Commisison has not yet set a new hearing date for this docket, and testimony will not be completed until the end of November, making it highly unlikely that a decision will be issued before the end of 2021. The Movants' suggested schedule would convert the November 10th deadline, originally set for Intervenor's direct testimony, to the deadline for DESC to file its opening brief on the legal issues. Response and reply briefs would then be due December 1 and December 10, respectively. This adjustment would, at worst, delay the overall schedule by 16 days (November 24 to December 10) and, at best, could speed up the final resolution in this docket if the Commisison agrees that DESC's proposal to bypass Siting Act review and its legal obligations with regard to all-source competitive procurement are improper.

DESC's urgency is also in tension with the fact that it agreed to the current schedule-- which held this proceeding in abeyance until 60 days after DESC filed its 2021 IRP Update.² The notion that a possible 16 day delay could suddenly pose a reliability concern due to issues years in the making is not credible.

¹ DESC Response at 4.

² See Motion to Hold Proceedings in Abeyance at 3.

**Prior Like Facility Determination Cases Warrant a Resolution
Without a Hearing**

In its Response Brief, DESC implies that this docket does not warrant a full contested-case hearing and that instead it could be decided on a paper record.³ As to the threshold legal issues in this case, Movants agree. Legal issues that could and should be quickly resolved include:

- 1) Are the replacement units at the Bushy Park, Parr and Urquhart sites “new peaking generation;”
- 2) Is a waiver of Commission Order No. 2007-626 appropriate if the Commission determines that replacement units at Bushy Park, Parr and Urquhart sites are “new peaking generation;”
- 3) Is a waiver of the merger Settlement Agreement with the South Carolina Solar Business Alliance in Docket No. 2017-370-E appropriate if the Commission determines that the Settlement Agreement applies to the Urquart facilities; and
- 4) Do the replacement units at Urquhart qualify as a “like facility.”⁴

By resolving this case on the legal issues, it will eliminate the need for an evidentiary hearing, thereby shortening the amount of time it takes for DESC to obtain resolution of its request. This is no different than how this Commisison has handled similar proceedings in the past: with no testimony and no evidentiary hearing.⁵ The same should be done here.

³ DESC Response Brief at 5-6. It is unclear why DESC also seems to be arguing that a hearing needed to take place within 90 days of the date of its application, since this is not a full Siting Act certificate proceeding. DESC Response Brief at 5-6; *see also* S.C. Code Ann. § 58-33-130.

⁴ DESC Like Facility Request at 2-6.

⁵ Declaratory Order on Status of Conversion and Repowering the 170 MW Lee Unit 3 from Coal to Natural Gas, Order No. 2014-118, Docket No. 2013-430-E (January 16, 2014); Order Determining Like Facility Status, Order No. 2014-963, Docket No. 2014-421-E (December 2, 2014); and Order Granting Petition for Declaratory Order, Orde No. 2005-635, Docket No. 2005-332-E (October 31, 2005).

Movants respectfully request that the Commission issue an order establishing a briefing schedule regarding the legal issues raised by DESC's request, hold the prefiled testimony deadlines in abeyance, and continue to hold the evidentiary hearing in abeyance pending a decision on the legal issues. The Movants would also request a slight delay in the current schedule in order to give the parties adequate time to submit briefing.

Respectfully submitted this 27th day of October, 2021.



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CERTIFICATE OF SERVICE

I hereby certify that I have served the person listed on the official service list for Docket No. 2021-93-E, listed below, a copy of the Reply to DESC's Response to Joint Motion to Modify Procedural Schedule by electronic mail at the addresses set forth below on this 27th day of October 2021:

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